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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,771	03/05/2002	Peter Robert Flux	UDL0157PUSA	7885

7590 09/26/2006
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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/890,771

Filing Date: March 05, 2002

Appellant(s): FLUX, PETER ROBERT

Attorney Kushman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/16/05 appealing from the Office action mailed 1/10/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

846,096	David (Great Britain)	8-1960
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB '096 to David. David shows a gripping means 10,25, a tensioning means with hollow shaft 6 and load setting means 11, indicator 27 and bracket means 18,24,23,1,4.

Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(10) Response to Argument

The rejection of claim 3 under 35 U.S.C. § 112 has been withdrawn. The rejections of claims 1-4 and 12, under 35 U.S.C. §103(a) of Lichtenberg in view of either Davis or David et al, the rejections of claims 1-4, under 35 U.S.C. §103(a) of Lichtenberg in view of Pilas, and the rejection of claims 10 and 11 have been withdrawn. With respect to claims 1-4 and 12 as rejected by David above, Appellant argues that the tensioning device is not a bottom anchor system and does not function as a fall arrest bottom anchor. It is noted that the tensioning device of David teaches all the claimed elements of the claimed tensioning device, and David's tensioning device is capable of tensioning a fall arrest line at its bottom end, thus the prior art to David meets all the requirement under 35 U.S.C. 102(b) and the rejection of the claimed tensioning device by David is thus proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


ACS


Alvin Chin-Shue
Primary Examiner

Conferees:

Richard Chilcot

Peter Cuomo

Alvin Chin-Shue



